

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

WHIRLPOOL CORPORATION,

Plaintiff,

v.

A & M DISTRIBUTION, LLC,

Defendant.

§  
§  
§  
§  
§  
§  
§  
§

Civil Action No. 2:16-cv-106

**COMPLAINT FOR PATENT INFRINGEMENT**

COMES NOW Plaintiff Whirlpool Corporation (“Whirlpool”), and for its Complaint for Patent Infringement of United States Patent No. 7,000,894 against A & M Distribution, LLC, states as follows:

**PARTIES**

1. Plaintiff Whirlpool is a corporation organized and existing under the laws of the state of Delaware with a principal place of business at 2000 North M-63, Benton Harbor, Michigan.

2. Defendant A & M Distribution, LLC (“A&M”) is a limited liability company organized and existing under the laws of the state of Nevada. It is assigned Business ID No. NV20151702898 by the Nevada Secretary of State and has a principal place of business at 2831 Saint Rose Parkway, Suite 342, Henderson, Nevada.

**JURISDICTION & VENUE**

3. This action arises under the patent laws of the United States, Title 35 United States Code. The jurisdiction of this Court is proper under Title 35 U.S.C. § 271, *et seq.* and Title 28 U.S.C. §§ 1331, 1332, and 1338.

4. A&M is a seller of water filters for refrigerators.

5. A&M has offered for sale and sold throughout the United States Whirlpool-compatible replacement water filters that infringe United States Patent No. 7,000,894, such as water filters bearing Model No. RFC0800A, which is a Whirlpool “Filter 3” design. A&M has offered for sale and sold such infringing products through on-line retail outlets such as Amazon.

6. On Amazon.com, A&M operates a storefront by the name “A & M Distribution LLC.”

7. In describing the benefits of offering and selling products via Amazon.com, the web based superstore touts its mass marketing status as follows:

**Reach Hundreds of Millions of Customers**

Access a massive audience of confident customers—in the U.S. alone, Amazon has over 95 million monthly unique visitors. Benefit from a brand that ranks #1 in reputation as determined by a 2014 Nielsen Company survey.<sup>1</sup>

([http://www.amazon.com/b/ref=nav\\_nav\\_cs\\_sell?\\_encoding=UTF8&ld=AZUSSOA-sell&node=12766669011](http://www.amazon.com/b/ref=nav_nav_cs_sell?_encoding=UTF8&ld=AZUSSOA-sell&node=12766669011))

8. A&M purposefully chose to sell its products, including the infringing water filters, on Amazon.com so as to reach a large number of prospective customers and to sell directly to customers located throughout the United States, including customers residing within the Eastern District of Texas.

9. A&M has offered for sale and sold Whirlpool-compatible refrigerator water filters that infringe U.S. Patent No. 7,000,894, such as Model No. RFC0800A filters, to residents and citizens of Texas who reside within this district.

10. The Court has personal jurisdiction over A&M because it has advertised in Texas, including the Eastern District of Texas, the sale of infringing filters via the internet, and A&M has offered for sale and sold the infringing products to customers in the state of Texas, including the Eastern District of Texas, thereby harming Whirlpool by offering to sell and/or selling infringing products in this district.

11. Venue is proper in this district pursuant to Title 28 U.S.C. §§ 1391(b), 1391(c) and 1400(b) because A&M has committed acts of infringement in this judicial district.

**COUNT I**  
**Infringement of U.S. Patent No. 7,000,894**

12. Whirlpool restates and incorporates by reference paragraphs 1 through 11 as if fully stated herein.

13. On February 21, 2006, the United States Patent and Trademark Office (“USPTO”) duly and legally issued United States Patent No. 7,000,894 (“the ‘894 patent”) entitled “Fluidic Cartridges and End Pieces Thereof.” On March 3, 2014, the USPTO issued an ex parte reexamination certificate for the ‘894 patent. Appended as Exhibit A is a true and correct copy of the ‘894 patent, inclusive of the ex parte reexamination certificate.

14. Whirlpool is the owner by assignment of the entire right, title and interest in and to the ‘894 patent, including the right to sue and recover past, present, and future damages for infringement.

15. Whirlpool manufactures products that practice the ‘894 patent, including Whirlpool “Filter 3” refrigerator water filters, and marks such products with the ‘894 patent.

16. The validity and enforceability of the ‘894 patent has been recognized and acknowledged in Consent Judgments entered by this Court in the patent infringement cases captioned *Whirlpool Corporation v. Brauchla TV, Inc. d/b/a Brauchla TV & Appliance*, Civil

Action No. 2:15-cv-2068 (Document 5); *Whirlpool Corporation v. National Trade Supply, LLC*, Civil Action No. 2:15-cv-1701 (Document 5); *Whirlpool Corporation v. Zipras, Inc.*, Civil Action No. 2:15-cv-1636-JRG (Document 7); *Whirlpool Corporation v. Air 1 Supply, Inc.*, Civil Action No. 2:15-cv-1640-JRG (Document 6), *Whirlpool Corporation v. Global Parts Supply, LLC d/b/a Pandora's OEM Appliance Parts*, Civil Action No. 2:15-cv-1563-JRG (Document 7), and *Whirlpool Corporation v. JJ Wholesale Group Inc. d/b/a Bob's Filters and Joseph Spira*, Civil Action No. 2:15-cv-1565-JRG (Document 11).

17. A&M has been infringing the '894 patent by importing, offering for sale and selling water filters covered by at least claims 1 and 4 of the '894 patent.

18. Whirlpool has obtained water filters identified as Model No. RFC0800A from A&M (hereinafter the "Infringing Filter"). Photographs that are fair and accurate representations of the Infringing Filter are appended as Exhibit B. The Infringing Filter infringes at least claims 1 and 4 of the '894 patent pursuant to Title 35, U.S.C. § 271(a), *et seq.*

19. A&M's offers for sale and sales of the Infringing Filter were without permission, authority, or license from Whirlpool. Further acts of infringement, unless enjoined by this Court, will continue to damage Whirlpool and cause irreparable harm to Whirlpool.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff Whirlpool respectfully requests the following relief:

- a. That the Court enter a judgment that A&M has infringed the '894 patent;
- b. That the Court enter a judgment that the '894 patent is not invalid;
- c. That the Court enter a judgment that the '894 patent is enforceable;
- d. That the Court enter a permanent injunction preventing A&M and its respective officers, directors, agents, servants, employees, attorneys, licensees, successors, and assigns, and

those in active concert or participation with any of them, from engaging in infringing activities with respect to the '894 patent;

- e. That the Court award damages for the infringement to which Whirlpool is entitled;
- f. That the Court award interest on the damages; and
- g. For any and all such other relief as this Court may deem appropriate.

Dated: February 3, 2016

Respectfully submitted,

By: /s/ Melissa R. Smith  
Melissa R. Smith (TX State Bar No. 24001351)  
GILLAM & SMITH, LLP  
303 S. Washington Ave.  
Marshall, TX 75670  
Telephone: (903) 934-8450  
Facsimile: (903) 934-9257  
Email: [Melissa@gillamsmithlaw.com](mailto:Melissa@gillamsmithlaw.com)

OF COUNSEL:

Jeffrey D. Harty (IA AT0003357)  
Ryan M. Leemkuil (IA AT0011129)  
NYEMASTER GOODE, P.C.  
700 Walnut Street, Ste. 1600  
Des Moines, IA 50309-3899  
Telephone: (515) 283-8038  
Facsimile: (515) 283-3108  
Email: [jharty@nyemaster.com](mailto:jharty@nyemaster.com)  
Email: [rwleemku@nyemaster.com](mailto:rwleemku@nyemaster.com)

Glenn Johnson (IA AT0003856)  
(Pro hac vice pending)  
NYEMASTER GOODE, P.C.  
625 First Street SE  
Suite 400  
Cedar Rapids, IA 52401  
Telephone: (319) 286-7002  
Facsimile: (319) 286-7050  
Email: [gjohnson@nyemaster.com](mailto:gjohnson@nyemaster.com)

*Attorneys for Plaintiff*  
**WHIRLPOOL CORPORATION**

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that the foregoing document was filed electronically in compliance with Local Rule CV-5(a). As such, this document was served on all counsel who have consented to electronic service, on February 3, 2016.

*/s/ Melissa Smith*  
\_\_\_\_\_  
Melissa Smith